

## Assembly Bill No. 117

### CHAPTER 202

An act to amend Sections 120508 and 120521, and to add Section 120509 to, the Public Utilities Code, relating to transportation.

[Approved by Governor August 9, 2003. Filed with  
Secretary of State August 11, 2003.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 117, Kehoe. Transportation: transit boards.

Under the Mills-Deddeh Transit Development Act, the San Diego Metropolitan Transit Development Board is created with specified transportation powers, including the power to purchase or acquire real and personal property. Existing law provides that whenever the board acquires ownership of existing facilities from a privately or publicly owned corporation or public utility that has a pension plan in operation, it is required that the members and beneficiaries of the pension plan continue to have the rights, privileges, benefits, obligations, and status under that plan. Existing law authorizes various public agencies to enter into contracts for participation in the Public Employees' Retirement System.

This bill would authorize the board to enroll the members and beneficiaries in, or transfer them to, the Public Employees' Retirement System or another retirement system under specified conditions. The enrollment of additional members in the Public Employees' Retirement System would increase contributions to the Public Employees' Retirement Fund, which is continuously appropriated. The bill would also authorize the board to abolish a nonprofit entity that operates public mass transit services and is solely owned by the board. The bill would provide that the provisions of certain collective bargaining agreements that are intended to prohibit or limit the right of a nonprofit entity to contract out covered bargaining unit services to another common carrier of persons are not binding upon the board with respect to contracts for services entered into, renewed, or extended by the board prior to January 1, 2004. The bill would make related changes.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 120508 of the Public Utilities Code is amended to read:

120508. (a) This article also applies to the employee relations of employees of a nonprofit entity which operates public mass transit services and which is solely owned by the board. For employee relations regarding these employees, the term “board,” as used in this article, means the board and the board of directors of the nonprofit entity as the joint employer of the employees.

(b) The board may, at any time in its sole discretion, abolish any nonprofit entity.

(c) Upon abolishing a nonprofit entity pursuant to subdivision (b), the board shall become the sole employer of the employees of the nonprofit entity and shall assume sole responsibility to observe all existing labor contracts established and maintained pursuant to this article.

(d) Except as may be agreed upon through the collective bargaining process, nothing in this section shall prohibit or limit the right of the board to contract with common carriers of persons operating under a franchise, license, or other agreement. Any provision in an existing collective bargaining agreement made applicable to the board in its capacity as a joint employer with a nonprofit entity pursuant to subdivision (a) or sole successor employer pursuant to subdivision (b) that is intended to prohibit or limit the right of a nonprofit entity to contract out covered bargaining unit services to another common carrier of persons shall not be binding upon the board with respect to any contract for services entered into, renewed, or extended by the board prior to January 1, 2004, and thereafter shall apply only to contracts for bargaining unit services covered by an existing collective bargaining agreement assumed by the board unless otherwise agreed upon through the collective bargaining process.

SEC. 2. Section 120509 is added to the Public Utilities Code, to read:

120509. (a) Upon the request of the board, as defined in Section 120508, with the consent of any labor organization acting as the exclusive representative of employees whose collective bargaining rights are subject to Section 120508, the board may enter into a contract to enroll the collectively bargained employees as members of the Public Employees’ Retirement System or another retirement system.

(b) A contract to enroll employees in the Public Employees’ Retirement System shall be subject to the provisions of Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code.

(c) Employees transferred from any existing retirement system or pension plan to the Public Employees’ Retirement System or any other retirement system by operation of this section shall receive benefits immediately after enrollment in, or transfer to, the system that are at least



equal to, or greater than, the benefits the employees would have been entitled to immediately before enrollment in, or transfer to, the system.

SEC. 3. Section 120521 of the Public Utilities Code is amended to read:

120521. (a) Whenever the board acquires ownership of existing facilities from a privately or publicly owned corporation or public utility, either in proceedings in eminent domain or otherwise, and terminates the corporation or operates the facilities itself, that has a pension plan in operation, the members and beneficiaries of the pension plan shall continue to have the rights, privileges, benefits, obligations, and status with respect to the plan.

The board shall consider, and take into account, the outstanding obligations and liabilities of the corporation or of the publicly or privately owned public utility, as the case may be, by reason of the pension plan, and may negotiate an allowance in the purchase price of the corporation or the utility for the assumption of those obligations and liabilities when acquiring the corporation or the utility.

(b) Instead of maintaining an existing pension plan applicable to bargaining unit employees of an acquired facility, the board, with the consent of any exclusive collective bargaining representative of employees of an acquired facility whose rights are protected by Section 120520, may enroll the employees in, or transfer them to, the Public Employees' Retirement System or another retirement system.

(c) A contract to enroll employees in the Public Employees' Retirement System shall be subject to the provisions of Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government Code.

(d) Employees participating in an existing pension plan shall receive benefits immediately after enrollment in, or transfer to, the system that are at least equal to, or greater than, the benefits the employees would have been entitled to immediately before enrollment in, or transfer to, the system.

